D.B. CIVIL SPECIAL APPEAL (WRIT) NO. 693/2004
( Ram Lal Vs. Board of Revenue & others)

Date of order : 25.05.2006

**HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA**
**HON'BLE SHRI JUSTICE DINESH MAHESHWARI**

Shri K.C.Samdariya for the appellant
Shri Manish Pitaliya for the respondent
Shri Sandeep Shah for the respondent-UIT

This appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The writ petition had arisen from the orders of the Revenue Appellate Authority dismissing the appeal of the appellant and the Board of Revenue upholding the same. The learned Single Judge noted that before the Revenue Appellate Authority, the appeal was barred by limitation but no application for condonation of delay was filed in terms of Section 5 of the Limitation Act. In that view of the matter, as rightly observed by the learned Single Judge, the Revenue Appellate Authority had no jurisdiction to go into merits of the case. Under Section 3 of the Limitation Act, in absence of any prayer for condonation, the appeal/revision, as the case may be, has to be dismissed as barred by limitation.

In response to these observations, counsel stated that the appellant may be permitted to take recourse to fresh proceedings as may be permitted in law.

Connected writ petition being S.B.Civil Writ Petition No.5856/2003 as well as this appeal are dismissed as withdrawn.

If there is no legal bar to taking recourse to fresh proceedings, it is open to the appellant to get a fresh proceeding initiated in accordance with law.

**(DINESH MAHESHWARI), J.** **(S.N. JHA), C.J.**

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